

Department of Social and Health Services

**DP Code/Title: PL-WF Marr Lawsuit**

**Program Level - 040 Div of Developmental Disab**

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Budget Period: 2003-05    Version: 11    2003-05 Agency Request Budget

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**Recommendation Summary Text:**

This item provides professional support services at Eastern State Hospital to eligible division clients identified as members of a class action lawsuit, Marr vs. DSHS, et al. and future Marr class members.

**Fiscal Detail:**

**Operating Expenditures**

	<u><b>FY 1</b></u>	<u><b>FY 2</b></u>	<u><b>Total</b></u>
<b>Program 040</b>			
001-1 General Fund - Basic Account-State	237,000	216,000	453,000
001-C General Fund - Basic Account-DSHS Medicaid Federa	145,000	133,000	278,000
<b>Total Cost</b>	<b>382,000</b>	<b>349,000</b>	<b>731,000</b>

**Staffing**

	<u><b>FY 1</b></u>	<u><b>FY 2</b></u>	<u><b>Annual Avg</b></u>
<b>Program 040 FTEs</b>	<b>3.5</b>	<b>3.5</b>	<b>3.5</b>

**Package Description:**

In December 1998, the Secretary of DSHS established a collaborative workgroup with staff from the Division of Developmental Disabilities (DDD), the Mental Health Division (MHD), and the community mental health system. This workgroup was charged with developing a set of recommendations regarding how to reduce the unnecessary hospitalization of dually diagnosed persons, improving services during hospitalization, and facilitating the timely discharge of patients determined psychiatrically stable. Their report was published in April 1999.

In January 1999, the Washington Protection and Advocacy System (WPAS) filed a class-action lawsuit against the state (Allen vs. DSHS) alleging abuse and neglect of individuals with developmental disabilities. It further alleged that individuals were denied opportunities for discharge to community programs and were at risk of unnecessary involuntary commitment. The WPAS suit entered court-ordered mediation in October 1999 and reached a mediated settlement on December 2, 1999.

In December of 2001, WPAS filed a second class action suit against the state (Marr v. DSHS) specifically involving Eastern State Hospital and DDD Regions 1 and 2. The trial date for this litigation is scheduled in December 2002 although DSHS and WPAS will be entering in court-ordered mediation in July and August 2002.

The funding provides individual client case management, resource management, and professional psychological services for Marr class members. The division is asking for 2.0 FTEs Intensive Case Managers, 0.5 FTE Case Resource Manager, and 1.0 FTE Psychologist 5 to carry out duties associated with Marr class members. In addition, the division anticipates that a court ordered monitoring committee would be required to oversee the settlement in Marr vs DSHS and is asking for additional funds in the amount of \$75,000 per fiscal year to support program oversight.

**Narrative Justification and Impact Statement**

***How contributes to strategic plan:***

This decision package relates to the division's Strategic Plan through Goal 1- DDD will effectively and efficiently use resources to accomplish the values, principles, and the mission of the division while maintaining accountability for public and client safety, and authorized resources, and Goal 5-DDD will design and maintain an effective system of residential supports and services. Specifically, the components of the decision package will enable the division to assist in implementation of the Collaborative Workplan, as it relates to Marr vs DSHS and provide supports for persons determined likely to pose significant risks to public safety.

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***Performance Measure Detail***

**Program: 040**

**Goal: 03D    Design/maintain system of residential supports and services**

**Incremental Changes**

**FY 1**

**FY 2**

**Output Measures**

3DB    Provide community protection services to DD clients with Public Safety issues.

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**Goal: 06D    Effectively/efficiently use resources to accomplish values/principals/ mission**

**Incremental Changes**

**FY 1**

**FY 2**

No measures submitted for package

***Reason for change:***

The settlement proposal avoids litigation. The response to the lawsuit is similar to that of the Allen lawsuit settlement in 2001.

***Impact on clients and services:***

The Marr class members will receive their necessary supports.

***Impact on other state programs:***

The MHD will also be impacted. These clients are dually diagnosed and receive services from both divisions.

***Relationship to capital budget:***

None

***Required changes to existing RCW, WAC, contract, or plan:***

None

***Alternatives explored by agency:***

An alternative would be to continue utilizing the existing staff to complete the work associated with the DDD/MHD Collaborative Work Plan in response to the Stay of Proceedings in Allen vs DSHS. Doing this would delay the implementation of several key factors in the Collaborative Work Plan as well as jeopardize the state's position in Marr vs DSHS, which is now being mediated.

An alternative would be to use existing funds within the department to pay for the Monitoring Committee expenses.

***Budget impacts in future biennia:***

These costs will impact future biennia at the second fiscal year funding level.

***Distinction between one-time and ongoing costs:***

There are minor one-time costs associated with the new FTEs such as equipment purchases. All other costs are ongoing.

***Effects of non-funding:***

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The division will have to utilize existing staff to complete the work associated with the DDD/MHD Collaborative Work Plan in response to the Stay of Proceedings in Allen vs DSHS. This would delay the implementation of several key factors in the Collaborative Work Plan as well as jeopardize the state's position in Marr vs DSHS, which is now being mediated.

Non-funding also would jeopardize the state's ability to successfully mediate Marr vs DSHS.

***Expenditure Calculations and Assumptions:***

This package funds a full-time psychologist, two intensive case managers, and one part-time case resource manager to provide necessary support to Marr class members.

This package also funds a team of four court appointed monitors to visit ESH and DDD Regions 1 and 2 quarterly.

See attachment - DDD PL-WF Marr Lawsuit.xls

<b><u>Object Detail</u></b>	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Total</u></b>
<b>Program 040 Objects</b>			
A    Salaries And Wages	183,000	183,000	366,000
B    Employee Benefits	42,000	42,000	84,000
E    Goods And Services	138,000	105,000	243,000
G    Travel	13,000	13,000	26,000
T    Intra-Agency Reimbursements	6,000	6,000	12,000
<b>Total Objects</b>	<b>382,000</b>	<b>349,000</b>	<b>731,000</b>

**DSHS Source Code Detail**

<b>Program 040</b>	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Total</u></b>
<b>Fund 001-1, General Fund - Basic Account-State</b>			
<b><u>Sources</u>    <u>Title</u></b>			
0011    General Fund State	237,000	216,000	453,000
<b>Total for Fund 001-1</b>	<b>237,000</b>	<b>216,000</b>	<b>453,000</b>
<b>Fund 001-C, General Fund - Basic Account-DSHS Medicaid Federa</b>			
<b><u>Sources</u>    <u>Title</u></b>			
19UL    Title XIX Admin (50%)	145,000	133,000	278,000
<b>Total for Fund 001-C</b>	<b>145,000</b>	<b>133,000</b>	<b>278,000</b>
<b>Total Program 040</b>	<b>382,000</b>	<b>349,000</b>	<b>731,000</b>